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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/825,643	04/15/2004	Mohammad R. Marzabadi	62524-AA/JPW/MJW	9030	
45821	7590 06/26/2006		EXAMINER		
LUNDBECK	RESEARCH USA, I	RAO, DEEPAK R			
ATTENTION:	STEPHEN G. KALIN	CHAK, LEGAL			
215 COLLEGE ROAD			ART UNIT	PAPER NUMBER	
PARAMUS. N	NJ 07652	1624			

DATE MAILED: 06/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Applica	tion No.	Applicant(s)				
	10/825,	643	MARZABADI ET AI	L.			
Office Action Summary		er	Art Unit				
	Deepak	Rao	1624				
The MAILING DATE of this comm	nunication appears on t	he cover sheet with	the correspondence add	Iress			
A SHORTENED STATUTORY PERIOD WHICHEVER IS LONGER, FROM THE - Extensions of time may be available under the provise after SIX (6) MONTHS from the mailing date of this cell. If NO period for reply is specified above, the maximum and the set or extended period for any reply received by the Office later than three mon earned patent term adjustment. See 37 CFR 1.704(b)	E MAILING DATE OF Tions of 37 CFR 1.136(a). In no communication. In statutory period will apply and eply will, by statute, cause the author after the mailing date of this communication.	THIS COMMUNICATION Event, however, may a rep will expire SIX (6) MONTH pplication to become ABAI	ATION. ly be timely filed HS from the mailing date of this cor NDONED (35 U.S.C. § 133).				
Status							
1) Responsive to communication(s)							
2a) This action is FINAL .	,_						
	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.						
closed in accordance with the pra	actice under <i>Ex parte</i> G	<i>≀uayle</i> , 1935 C.D.	11, 453 O.G. 213.				
Disposition of Claims							
4) ☐ Claim(s) 40-46 and 82-92	s/are withdrawn from o rejected.	consideration.					
Application Papers							
9) The specification is objected to by 10) The drawing(s) filed on is/a Applicant may not request that any of Replacement drawing sheet(s) included the second sheet of the second s	are: a) accepted or l bjection to the drawing(s) ding the correction is requ) be held in abeyancuired if the drawing(s	e. See 37 CFR 1.85(a).) is objected to. See 37 CF				
Priority under 35 U.S.C. § 119							
 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 							
Attachment(s) 1) Notice of References Cited (PTO-892)		4) 🔲 Intonéous Su	mmary (PTO-413)				
 Notice of References Cited (PTO-892) Notice of Draftsperson's Patent Drawing Revier Information Disclosure Statement(s) (PTO-144: Paper No(s)/Mail Date 20040415 & 2004112. 		Paper No(s)/	/Mail Date ormal Patent Application (PTO	-152)			

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DETAILED ACTION

Claims 40-46 and 82-92 are pending in this application.

Priority

Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 120 as follows:

This application is claiming the benefit of prior-filed nonprovisional application No. 09/899,635 under 35 U.S.C. 120, 121, or 365(c). Copendency between the current application and the prior application is required. Since the applications are not copending, the benefit claim to the prior-filed nonprovisional application is improper. Applicant is required to delete the reference to the prior-filed application from the first sentence(s) of the specification, or the application data sheet, depending on where the reference was originally submitted, unless applicant can establish copendency between the applications. (Relevant portion of MPEP provided below for convenience).

B. Claiming the Benefit of Nonprovisional Applications — Copendency When a later-filed application is claiming the benefit of a prior-filed nonprovisional application under 35 U.S.C. 120, 121, or 365(c), the later-filed application must be copending with the prior application or with an intermediate nonprovisional application similarly entitled to the benefit of the filing date of the prior application. Copendency is defined in the clause which requires that the later-filed application must be filed before: (A) the patenting of the prior application; (B) the abandonment of the prior application; or (C) the termination of proceedings in the prior application. If the prior application issues as a patent, it is sufficient for the later-filed application to be copending with it if the later-filed application is filed on the same date, or before the date that the patent issues on the prior application. Thus, the later-filed application may be filed under 37 CFR 1.53(b) while the prior application is still pending before the examiner, or is in issue, or even between the time the issue fee is paid and the patent issues. Patents usually will be published within four weeks of payment of the issue fee. Applicants are encouraged to file any continuing applications no later than the date the issue fee is paid, to avoid issuance of the prior application before the continuing application is filed.

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Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 40-46 and 82-92 are rejected under 35 U.S.C. 102(b) as being anticipated by Lagu et al., WO 02/06245. The instant claims read on reference disclosed compounds, see the structural formula in page 17 and the species in page 62, lines 30-35. The reference discloses that the compounds are useful as therapeutic agents for the treatment of depression and/or anxiety (see page 36); or bulimia, obesity or bulimia nervosa (see page 94).

Receipt is acknowledged of the Information Disclosure Statements filed on April 15, 2004 and November 26, 2004 and copies are enclosed herewith.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Deepak Rao whose telephone number is (571) 272-0672. The examiner can normally be reached on Tuesday-Friday from 6:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James O. Wilson, can be reached at (571) 272-0661. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Deepak Rao Primary Examiner Art Unit 1624

June 22, 2006